

3/12/03
11 Response
Cm
3/11/03

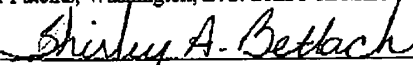
PATENT

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Applicants:	David P. Veilleux and Christopher J. Edge	Examiner:	Naresh Vig
Serial No.:	09/808,851	Group Art Unit:	3629
Filed:	March 15, 2001	Docket No.:	1037-027US01
Title:	COLOR IMAGE DISPLAY ACCURACY FOR DISPLAY DEVICES ON A NETWORK		

CERTIFICATE UNDER 37 CFR 1.8: I hereby certify that this correspondence is being deposited via facsimile with the Commissioner for Patents, Washington, D.C. 20231 on March 10, 2003.

By:



Name: Shirley A. Betlach

RESPONSE

Commissioner for Patents
Washington, D.C. 20231

Dear Sir:

In response to the Office Action mailed December 10, 2002, the period of response for which runs through March 10, 2003, Applicants respectfully request reconsideration and prompt allowance of the pending claims.

Rejection of Claims 1-6, 10, 16-21, 28, 36-41 and 46

In the Office Action, the Examiner rejected claims 1-6, 10, 17-21, 28, 36-41 and 46 under 35 U.S.C. 103(a) as being unpatentable over U.S. Patent No. 6,058,417 to Hess et al. (Hess et al.) in view of U.S. Patent No. 6,157,735 to Holub (Holub) and further in view of the article entitled "TMDSP: An Image Display Program for IDL" by Liam Gumley ("Gumley").

Applicants respectfully traverse this rejection. Hess et al., Holub and Gumley fail to disclose or suggest the inventions set forth in claims 1-6, 10, 17-21, 28, 36-41 and 46. Moreover, the Hess et al., Holub and Gumley references provide no teaching that would have suggested the desirability of modification or combination to arrive at the claimed inventions.

In support of the rejection, the Examiner essentially relied upon Hess and Holub as set forth in the previous Office Action mailed May 10, 2002. In particular, the Examiner characterized Hess as disclosing an online person-to-person trading system in which images of traded items can be displayed. The Examiner acknowledged that Hess fails to contemplate modification of color images based on the colorimetric responses of display devices associated with source clients, as claimed. However, the Examiner again cited Holub as teaching calibration of rendering devices to transform input color image data to output color image data.

The Examiner apparently recognized that Hess and Holub lack any teaching that would have suggested the desirability of modification of the Hess system in view of Holub to include the features required by claims 1-6, 10, 17-21, 28, 36-41 and 46. However, the Examiner further cited Gumley. The Examiner did not explain how the IMDSP system taught by Gumley relates to the teaching of Hess or Holub. Instead, the Examiner quoted a passage from Gumley as follows:

IMDSP allows you to concentrate on your work, rather than forcing you to worry about mundane issues such as determining the characteristics of the current graphics device, or deciding whether to use decomposed color mode. IMDSP keeps all these operations hidden internally: all you know is your image was displayed correctly.

The Examiner apparently cited Gumley as evidence of motivation to modify the Hess system according to the Holub teachings to arrive at the claimed invention. Applicants are unable to discern any such motivation from the Gumley reference. Moreover, the Examiner did not explain where such motivation could be found in Gumley

Gumley describes a system for displaying images using Interactive Data Language (IDL) to support data visualization. Gumley makes no reference to online trading environments as taught by Hess, nor color calibration of image rendering devices as taught by Holub. Even more importantly, Gumley fails to teach modification of color images based on the colorimetric responses of display devices associated with source clients, as claimed. Instead, Gumley merely describes an IDL-based image display procedure for image sizing and intensity scaling in view of the size and intensity capabilities of a display device. As a result, the Examiner has yet again failed to cite any reference that describes or suggests this element of Applicants' claims.

Again, the Gumley reference fails to suggest modifying color images based on the *colorimetric* responses of display devices associated with source clients, and provides no motivation to provide such a feature. The notion that the Gumley system "allows you to concentrate on your work" so that "all you know is your image was displayed correctly," as cited by the Examiner, sheds no light whatsoever on the requirements of Applicants' claims nor the modifications necessary to incorporate them in the Hess system. Therefore, it is difficult to understand what the Gumley reference adds to the Examiner's previous analysis. Rather, the Examiner's resort to Gumley appears to be an attempt to bridge the gap between the prior art and the claimed invention with a teaching that simply does not exist outside of Applicants' disclosure.

Adding to the confusion, the Examiner also pointed to the previously cited Eddie Bauer reference as follows:

For example, Eddie Bauer discloses to display products it sells over the internet in plurality of colors. It is known at the time of invention to a person with ordinary skill in the art the user can access internet using Microsoft Windows, Sun Solaris, MAC OS, AIX, HP-UX, etc.

From this statement, Applicants are uncertain whether the Examiner has based the conclusion of obviousness on Hess in view of Holub and Gumley, or further in view of Eddie Bauer. Of course, Applicants thoroughly distinguished the Eddie Bauer reference in the previous response file September 10, 2002, and questioned the legitimacy of the Eddie Bauer reference as prior art in view of Applicants' filing date.

Applicants submit that, once again, the Examiner has improperly relied on Applicants' own disclosure in formulating the conclusion of obviousness. The general desire once again expressed by the Examiner "to present the images for remote users as close as possible to the original and minimize customer complaints" is found in none of the reference cited by the Examiner. The present grounds of rejection are utterly contrived, and underscore the deficiencies in the prior art.

Most importantly, none of the references provides a teaching that would have suggested the desire to add to the Hess system the ability to modify color images based on the colorimetric responses of display devices associated with source clients, as set forth in claims 1-6, 10, 17-21,

28, 36-41 and 46. The Examiner did not establish a prima facie case of unpatentability under 35 U.S.C. 103(a). Therefore, this rejection must be withdrawn.

Rejection of Claims 7-9, 22-27, 35 and 42-45

The Examiner rejected claims 7-9, 22-27, 35 and 42-45 under 35 U.S.C. 103(a) as being unpatentable over Hess in view of Holub and further in view of Gumley, Microsoft Corporation's Microsoft Windows and Information Bulletin from Computer Incident Advisory Capability ("CIAC").

Applicants respectfully traverse this rejection. Notwithstanding the deficiencies already discussed above, none of the numerous and disparate references cited by the Examiner provides any teaching that would have suggested further modification of the Hess system to offer characterization of the colorimetric responses of the display devices by delivering a series of web pages to a client that guide the clients through a color profiling process, as required by claims 7-9, 22-27, 35 and 42-45.

In support of the rejection, the Examiner recognized that Hess, Holub and Gumley lack a teaching sufficient to arrive at the claimed invention. The Examiner noted that Holub teaches "a method of how it calibrates its systems," and broadly asserted that any "product provider will design their own process to calibrate their product." In addition, the Examiner cited Microsoft as teaching users how to calibrate their displays.

Somehow, the Examiner concluded that the teachings of Microsoft concerning calibration of a display would conform to the requirements of claims 7-9, 23-27, 35, and 42-45. Applicants are astounded. Neither the Microsoft reference, nor any other reference of record, refers to characterization of the colorimetric responses of the display devices by delivering a series of web pages to a client that guide the clients through a color profiling process. The mere fact that the Microsoft Windows operating system permits display calibration falls far short of this particular requirement. For example, the Examiner pointed to no teaching within Microsoft concerning delivery of a series of web pages to guide client through a color profiling process. Therefore, it is unclear how the Examiner could possibly reach such a conclusion of obviousness with respect to claims 7-9, 23-27, 35 and 42-45.

In addition, with respect to claims 8, 9, 25-27, 44, and 45, the fact that cookies are well known in the art, as evidenced by CIAC, does not amount to a teaching of the generation of web cookies containing information representing the results of a color profiling process. Accordingly, the Examiner's discussion of the use of cookies in a general sense offers no insight into this requirement of claims 8, 9, 25-27, 44, and 45.

In view of the deficiencies described above, this rejection is improper and must be withdrawn.

Rejection of Claims 11-15, 29-34, 47-50 and 74

The Examiner rejected claims 11-15, 29-34, 47-50 and 74 under 35 U.S.C. 103(a) as being unpatentable over Hess, Holub, Gumley, U.S. Patent No. 6,366,891 to Feinberg (Feinberg), and Ebay.

Applicants respectfully traverse this rejection. The applied references fail to disclose or suggest calculating a fee for images modified based on the colorimetric responses of display devices associated with source clients, as required by claims 11-15, 29-34, 47-50 and 74.

In support of the rejection, the Examiner acknowledged that Hess and Holub fail to disclose calculating a fee for each modified image, as set forth in claims 11-145, 29-34, 47-50 and 74. The Examiner cited Feinberg as teaching a data processing system that can be used to conduct a modified auction that involves granting bidders the right to bid in exchange for payment of a small fee. The Examiner also cited Ebay as teaching an online auction that charges a fee to the seller based upon the selling price of a product.

In view of Feinberg and Ebay, the Examiner stated that it was "known at the time of invention to a person with ordinary skill in the art to charge fees to the user to keep the system operational and generate profit." Then, the Examiner engaged in a puzzling discussion of the fee charging practices of photo hosting services such as Pongo, Twaze, and PixHost. Like the Eddie Bauer reference, it is unclear to Applicants whether such hosting services are intended to serve as additional references in support of the rejections.

Following a protracted and seemingly impertinent discussion of the billing practices of banks and Internet service providers, the Examiner concluded that it would have been obvious for a company to "charge the fee to their customers upon their approval to minimize complaints

from their customers.” Whether the Examiner’s conclusion flows from the cited references or not, it seems to have nothing to do with the specific requirements of the claimed invention, i.e., calculating a fee for images modified based on the colorimetric responses of display devices associated with source clients. The Examiner apparently has side-stepped this requirement, and therefore failed to establish a prima facie case of unpatentability. Accordingly, this rejection is improper and must be withdrawn.

Rejection of Claims 51-54, 59-62 and 68-71

The Examiner rejected claims 51-54, 59-62 and 68-71 under 35 U.S.C. 103(a) as being unpatentable over Hess in view of Holub and further in view of Gumley, Microsoft and CIAC.

Applicants respectfully traverse this rejection. As discussed elsewhere in this response, the applied references fail to disclose or suggest characterization of colorimetric responses of display devices associated with source clients by delivering a series of web pages that guide the source clients through a color profiling process, and modification of color images based on the colorimetric responses of display devices associated with the source clients, as required by claims 51-54, 59-62 and 68-71.

Moreover, the references also lack any teaching that would have suggested characterization of colorimetric responses of display devices associated with both the source clients and destination clients by delivering a series of web pages that guide the source and destination clients through a color profiling process, and modification of color images based on the colorimetric responses of display devices associated with the source and destination clients, as further required by claims 51-54, 59-62 and 68-71. Accordingly, this rejection is improper and must be withdrawn.

Rejection of Claims 55, 56, 63, 64, 72 and 73

The Examiner rejected claims 55-56, 63-64 and 72-73 under 35 U.S.C. 103(a) as being unpatentable over Hess in view of Holub and further in view of Gumley, Microsoft, and CIAC.

Applicants respectfully traverse this rejection. As discussed elsewhere in this response, the applied references fail to disclose or suggest generation of web cookies for clients containing information representing the results of the color profiling process, and transmission of the web

cookies for use in the modification of the color images, wherein a server modifies the color images based on the contents of the web cookie, as set forth in claims 55, 63, and 72. Accordingly, this rejection is improper and must be withdrawn.

Rejection of Claims 57, 58, 66 and 67

The Examiner rejected claims 57, 58, 66, and 67 under 35 U.S.C. 103(a) as being unpatentable over Hess in view of Holub and further in view of Gumley, Feinberg, and eBay.

Applicants respectfully traverse this rejection. As discussed elsewhere in this response, the applied references fail to disclose or suggest charging a fee for modified color images, as set forth in claims 57, 58, 66, and 67. Accordingly, this rejection is improper and must be withdrawn.

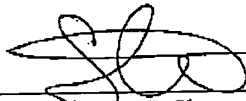
All claims in this application are in condition for allowance. Applicants respectfully request reconsideration and prompt allowance of all pending claims. Please charge any additional fees or credit any overpayment to deposit account number 50-1778. The Examiner is invited to telephone the below-signed attorney to discuss this application.

Date:

By:

3-10-03

SHUMAKER & SIEFFERT, P.A.
8425 Seasons Parkway, Suite 105
St. Paul, Minnesota 55125
Telephone: 651.735.1100
Facsimile: 651.735.1102


Name: Steven J. Shumaker
Reg. No.: 36,275

SHUMAKER & SIEFFERT, P.A.
8425 SEASONS PARKWAY, SUITE 105
ST. PAUL, MINNESOTA 55125
TEL 651.735-1100
FAX 651.735-1102
WWW.SSIPLAW.COM

FACSIMILE TRANSMITTAL SHEET

TO:	Naresh Vig	FROM:	Steven J. Shumaker
COMPANY:	U.S. Patent & Trademark Office	DATE:	MARCH 10, 2003
FAX NUMBER:	703-872-9326	TOTAL NO. OF PAGES INCLUDING COVER:	9
PHONE NUMBER:	703-305-3372	SENDER'S REFERENCE NUMBER:	1037-027US01
RE:	Response to Office Action	YOUR REFERENCE NUMBER:	09/808,851

☐ URGENT ☒ FOR REVIEW ☐ PLEASE COMMENT ☐ PLEASE REPLY

NOTES/COMMENTS:

Official

FAX RECEIVED

MAR 11 2003

GROUP 3600

PATENTIN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Applicants: David P. Veilleux and Christopher J. Edge
Serial No.: 09/808,851
Filed: March 15, 2001
Title: COLOR IMAGE DISPLAY ACCURACY FOR DISPLAY DEVICES ON A NETWORK

Examiner: Naresh Vig
Group Art Unit: 3629
Docket No.: 1037-027US01

CERTIFICATE UNDER 37 CFR 1.8: I hereby certify that this correspondence is being deposited via facsimile with the Commissioner for Patents, Washington, D.C. 20231 on March 10, 2003.

By: 

Name: Shirley a. Betlach

BOX NON-FEE AMENDMENT

Commissioner for Patents
Washington, D.C. 20231

Sir:

We are transmitting herewith the attached correspondence relating to this application:

- ☒ Transmittal sheet containing Certificate of Mailing
☒ Amendment (7 pgs.)
☒ No additional fee is required

Please apply any charges not covered, or any credits, to Deposit Account No. 50-1778.

Date:

3-10-03By: 

Name: Steven J. Shumaker

Reg. No.: 36,275

SHUMAKER & SIEFFERT, P.A.
8425 Seasons Parkway, Suite 105
St. Paul, Minnesota 55125
Telephone: 651.735.1100
Facsimile: 651.735.1102